

GTMO DETAINEE PROCESSES

rev. Nov 14, 2005

PROCESS	DEFINITION/PURPOSE	ELIGIBILITY	DETAINEE PROVIDED ASSISTANCE?	RESPONSIBILITY	REFERENCES
Combatant command determines whether enemy combatant satisfies global screening criteria.	Applicable combatant command determines (1) if a captured individual is an EC,* (2) if an EC, whether he should be transferred to GTMO, and (3) once at GTMO, whether he is a threat.	All GTMO detainees experience this level of review at least twice.	Not applicable.	Multiple officials including: <ul style="list-style-type: none"> • USCENTCOM and its JTFs • USSOUTHCOM <ul style="list-style-type: none"> o JTF-GTMO • SECDEF <ul style="list-style-type: none"> o USD(P) o ASD/SOLIC 	DepSecDef Detainee Assessment Memo, December 26, 2002; DepSecDef Order OSD 06942-04 of May 11,2004
Combatant Status Review Tribunal (CSRT)	One-time DoD administrative review at GTMO to determine whether a detainee should continue to be classified as an EC.	All GTMO detainees.	Yes (by non-attorney Personal Representative)	Convening Authority	DepSecDef Order of July 7, 2004; Convening Authority Appointing Letter of July 9, 2004; SECNAV Memo of July 29, 2004
Administrative Review Board (ARB)	DoD annual administrative review at GTMO to assess whether an EC should be released, transferred or detained further. Based primarily on current threat and intelligence assessments.	All GTMO ECs, except those subject to trial by Military Commission or previously designated for release or transfer .	Yes (by non-attorney Assisting Military Officer)	Designated Civilian Official	DepSecDef Order OSD 06942-04 of May 11, 2004; DepSecDef Memo of June 4, 2004; DepSecDef Memo of May 22, 2004; DCO Directive September 14, 2004
Military Commissions	DoD trial to prosecute ECs accused of violating the law of war, as provided by the President’s Military Order and implementing regulations.	Non-U.S. citizens based upon the detainee’s participation in al Qaida and acts of international terrorism. Fourteen detainees eligible as of Oct 14, 2005.	Yes. Represented by military counsel (JAGs), with the option to retain civilian counsel at no expense to the United States.	Office of Military Commissions	President’s Military Order of November 13, 2001, “Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,” 66 Fed. Reg. 57,833 (2001).
Petition for a Writ of Habeas Corpus	U.S. District Court consideration of detainee claims.	All GTMO detainees may file a petition requesting this review in U.S. District Court – most likely the U.S. District Court for the District of Columbia.	May be represented by civilian counsel retained by the detainee, his friends or family, or appointed by the court.	<ul style="list-style-type: none"> • U.S. District Court considers the claims • U.S. Attorney (DoJ) represents U.S. interests 	U.S.C. Section 2241; <u>Rasul v. Bush</u> , 542 U.S. 466 (2004).

*An enemy combatant (EC) is defined as an individual who was part of or supporting Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces.